IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 237 OF 2007

in

CRIMINAL APPLN. NO. 3765 OF 2004

IN

C.C. NO. MICR 4/ OF 04

Mr. Ramesh Chandanlal Shah ... Applicant

Versus

The State of Maharahtra & ors. ... Respondents

Mr. P.G.Vora for the applicant.

Mr. Y.P.Yagnik for Respondent No.2.

Mrs. M.H.Mhastre, APP, for the State.

CORAM: J.H.BHATIA,J.

DATE : 11th June, 2007.

P.C.

1. Heard Mr. P.G.Vora, learned Counsel for the applicant, Mr. Yagnik, learned Counsel for Respondent No.2 and Mrs. Mhatre, learned APP for Respondent No.1 - State.

2. Respondents Nos. 3 and 4 are the co-accused in

the present Application and Respondent No.2 is the original complainant on the basis of whose report the offence was registered. The applicant filed Criminal Application No.3765 of 2004 to quash the FIR registered at the Nagpada Police Station on the report of Respondent No.2 in the year 2004. By order dated 23.9.2004, while issuing notice to Respondents Nos. 2 to 4, this Court had granted ad-interim relief and thereby stayed further proceedings in the said FIR. After that, the applicant did not remove office objections and did not supply the copies of that Application due to which Respondent Nos. 3 and 4 could not be served. It appears that repeatedly, the matter was adjourned for removal of office objections. In these circumstances, on 17.10.2006, that Application against Respondents Nos. 3 and 4 came to be dismissed. ON 8.11.2006, the Application itself came to be dismissed in default on the ground that the Advocate for the applicant was persistently absent. Now by this application filed on 10.4.2007, the applicant seeks restoration of the Application No.3765 of 2004.

3. It appears that the applicant was interested only in getting stay to investigation in the FIR knowing well that Respondents Nos. 3 and 4 were the co-accused and were not opposing this Application. Only for service to them the matter was pending for two years and the

applicant did not remove office objections so that Respondents Nos. 3 and 4 could be served. About 5 months after the Application came to be dismissed in default, this Application is filed. The applicant contends in para 5 that on 20.3.2007, when he was called to the Nagpada Police Station for investigation, he came to know that the Application was rejected.

4. In view of the facts stated above, it appears that the applicant was not diligent enough to prosecute his earlier Appliction and intention was only to stop the investigation in the FIR. No valid reasons are given as to why office objections were not removed for such a long time and I am also not satisfied with the reasons for the delay of 126 days in filing this Application.

5. In the result, the Application stands rejected.

6. Parties and authorities shall act on the authenticated copy of this Order.

(J.H.BHATIA,J.)